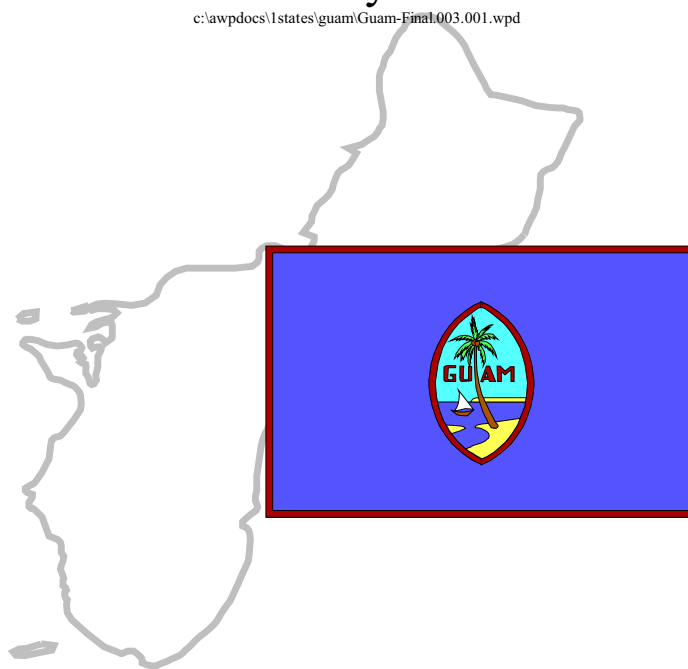


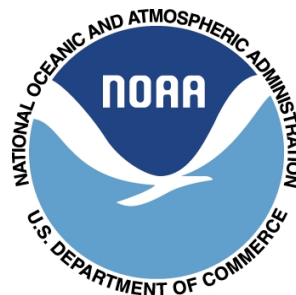
*Evaluation Findings  
for the  
Guam Coastal Management Program  
from  
February 1999 to April 2003*

February 2004

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Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce



## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>ii</b>
<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. PROGRAM REVIEW PROCEDURES .....</b>	<b>2</b>
<b>III. PROGRAM DESCRIPTION .....</b>	<b>4</b>
<b>IV. PROGRAM ACCOMPLISHMENTS .....</b>	<b>6</b>
A. Staff Activities. ....	6
B. Federal Consistency .....	6
C. Geographic Information System User Group .....	7
D. All Islands CZM Program Managers Meeting .....	7
<b>V. REVIEW FINDINGS AND RECOMMENDATIONS .....</b>	<b>9</b>
A. GCMP Office Management, Communication, and Support .....	9
B. Coordination of Program Priorities within GCMP, the Bureau, and the GCMP Network .....	10
C. Leadership in the Development and Approval of the Guam Seashore Reserve Plan .....	11
D. Leadership in the Completion and Approval of Guam's Non-point Source Pollution Control Plan .....	12
E. Management of GCMP Contractual Expenditures of Federal Funds .....	13
F. GCMP Management Involvement in Bettering Application Review Committee (ARC) Processes .....	14
G. GCMP Involvement in Potential Reorganization and Program Positioning ..	15
H. Program Updating .....	16
I. Education and Outreach. ....	16
<b>VI. CONCLUSION .....</b>	<b>17</b>
 <b>Appendix A:</b> Persons Contacted During the Evaluation	
<b>Appendix B:</b> Persons Attending the Public Meeting	
<b>Appendix C:</b> Written Comments Received and Responses	
<b>Appendix D:</b> Response to the Previous Findings	

## EXECUTIVE SUMMARY

### A. OVERVIEW

Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of state coastal management program implementation. This review examined how the Territory of Guam has implemented and enforced the Guam Coastal Management Program (GCMP), addressed the coastal management needs addressed in section 303(2)(A) through (K) of the CZMA, and adhered to the terms and conditions of the NOAA financial assistance awards the GCMP received between February 1999 through April 2003.

### B. ACCOMPLISHMENTS

The Evaluation Team documented a number of areas where the GCMP improved its management of Guam's coastal resources. These include:

1. **Staff Activities.** In light of the two major typhoons to hit Guam in the recent past and the resulting office relocation, Program staff are recognized for their perseverance in maintaining work flow and response to processes such as Federal consistency and other requirements.
2. **Federal Consistency.** With certain exceptions that were outside the capability of GCMP staff to respond, the Federal consistency process works efficiently and is applied well.
3. **Geographic Information System (GIS) User Group.** A strong relationship has been cultivated with the NOAA Coastal Services Center and Pacific Services Center through the Pacific Island Assistantship Program, which has resulted in a strengthened GIS User Group, added technical assistance efforts, a training program, and web page creation.
4. **All Islands CZM Program Managers Meeting.** The GCMP organized and coordinated the comprehensive set of logistical and substantive requirements for the annual All Islands Coastal Management Program Manager's meeting in June 2002. Over 100 local and regional managers and staff from coastal management related agencies and organizations participated in this three day event which included presentations, discussion, and field site visits.

## **C. SUMMARY OF RECOMMENDATIONS**

In addition to the significant accomplishments described above, OCRM has identified areas where the program may be improved. These evaluation findings contain five (5) recommendations which take the form of a Necessary Action and are mandatory. Four (4) recommendations take the form of Program Suggestions and are not mandatory at this time. However, Program Suggestions that must be reiterated on consecutive evaluations to address continuing problems may be elevated to Necessary Actions.

### **1. GCMP Office Management, Communication, and Support**

The Evaluation Team found that the GCMP lacked a coherent mission and day to day management. For example, the Team found multiple instances where GCMP staff were not supported in their regular duties and where professional staff processes and procedures were not supported by upper level management. Moreover, the Team found staff not receiving communication, guidance or direction in their activities, and as such products and progress on tasks funded under the Federal grant were not being achieved.

#### **NECESSARY ACTION:**

**The GCMP must develop and submit the following to OCRM for review no later than one month after the receipt of final evaluation findings:**

- **An office communications plan outlining: a) a process and timetable for setting short term work schedules and goals, and b) mechanisms and schedules for updating/reporting on accomplishments and challenges.**
- **Staff work plans for each GCMP staff person outlining tasks and timetables.**

**GCMP must immediately begin to implement the above plans. Implementation and progress must be documented in future performance reports, beginning with the first report after receipt of these final findings.**

### **2. Coordination of Program Priorities within GCMP, the Bureau, and the GCMP Network.**

The Evaluation Team found that GCMP is not sufficiently coordinating its day to day and annual priority setting of program activities. This includes the setting of coordinated priorities at the following levels: 1) among GCMP staff, 2) between GCMP and other sections of the Bureau

of Statistics and Plans, with emphasis on the GIS section, and 3) among Guam's network of coastal management agencies and organizations.

**NECESSARY ACTION:**

**No later than one month after the receipt of the final evaluation findings, the GCMP will submit to OCRM for review, plans which describe the process for coordination and priority setting at the three levels described above: 1) among GCMP staff, 2) between GCMP and other sections of the Bureau of Statistics and Plans, with emphasis on the GIS section, and 3) among Guam's network of coastal management agencies and organizations, including its Federal partners.**

**3. Leadership in the Development and Approval of the Guam Seashore Reserve Plan.**

It was recognized by the evaluation team during the site visit that the Guam Seashore Reserve Plan (GSRP) is a crucial element of the GCMP and is long overdue in its development, approval and implementation. The recent Seashore Protection Planning development process has been a failure of the GCMP to adequately implement the intent of the approved program and, moreover, to responsibly administer Federal CZM funding. During this process the GCMP failed to: prevent their sub-awardee, the Department of Land Management, and their consultant from developing the plan with little to no public input; counter the consultant's actions to ignore the input and comments of affected regulatory agencies; and stop the process that resulted in the consultant presenting the plan to the Commission for adoption.

**NECESSARY ACTION:**

**As this Plan is an integral, critical component of Guam's coastal management framework, GCMP must take an appropriate leadership role with its network agency partners to ensure proper development and implementation of the Guam Seashore Reserve Plan. A final process and timetable for the development of the Seashore Protection Plan must be provided to OCRM within one month of the receipt of these final findings for approval to assure the intent of this recommendation is being carried out. The process must describe how the Federal funding allocated for Seashore Plan approval under the FY2003 grant is proposed to be spent.**

**4. Leadership in the Completion and Approval of Guam's Non-point Source Pollution Control Plan.**

The Territory has received considerable amounts of funding to develop a non-point

source pollution control plan. To date an approved plan has not been completed. Despite efforts on the part of EPA and OCRM to define the remaining plan elements that Guam must address, Guam agencies continued to contend that their existing authorities are broad enough to meet program requirements without further refinement.

**NECESSARY ACTION:**

**GCMP and Guam EPA must commit the necessary staff effort to complete and submit its non-point plan for approval within six months of the receipt of these final findings. Absent this action, funds will be withheld in the appropriate amount that would be channeled toward implementation, until such time as an approvable plan has been submitted.**

**5. Management of GCMP Contractual Expenditures of Federal Funds.**

The review Team was made aware of several instances, as cited in the Necessary Actions above, of neglect associated with administration of GCMP Federal grant expenditures for contractual services. The lack of adequate management of Federally-funded contracts has resulted in required products and services not being delivered. The deficiency of contract stewardship and subsequent incomplete fulfillment of deliverable expectations have been significant contributing factors to the lack of appropriate progress on Necessary Action 3 and 4, above.

**NECESSARY ACTION:**

**In order to ensure adequate oversight of present and future Federal funds spent on contractual services, all such expenditures subsequent to receipt of these final findings must be reviewed and must receive prior approval from OCRM. Within one month from the receipt of the final evaluation findings document, GCMP will develop and submit to OCRM an agreed upon process to ensure the review and proper expenditure and ongoing management of contractual funds. This will include the review of any MOUs related to interagency transfer of funds for contractual services, all RFPs prior to advertisement, subsequent proposals, and summaries of local team review and selection decisions. Furthermore, the Program is required to provide OCRM with quarterly summary reports on progress being made under all ongoing and pending contracts. It is further recommended that contract management responsibilities be considered as an element in the development of staff work plans.**

## **6. GCMP Management Involvement in Bettering Application Review Committee (ARC) Processes.**

One of the central mechanisms of coordination within the GCMP is the Territorial Agency Application Review Committee. Permit applications are to be reviewed by this group and comments coordinated. However, once applications are submitted, they are routed to the various agencies, comments are made and conditions applied as submitted, and the permit, with the conditions of the agencies are forwarded to the Guam Land Use Commission (GLUC). Essentially, there is no review of Agency comments to determine if there are duplicative permit conditions which may exclude or impact upon the conditions of another agency, conditions that are vague and allow for interpretation regarding implementation, or which would be difficult or impossible to monitor. Multiple examples of the unsatisfactory outcomes that result from this lack of coordination among ARC agency review and determination were brought to the attention of the Evaluation Team, making it clear that improvement is needed.

### **PROGRAM SUGGESTION:**

**As a major element of maintaining, rebuilding, and strengthening the GCMP network, the GCMP, the Department of Land Management, and the other ARC member agencies should immediately assess the methodologies and processes of the ARC and revise and/or develop new mechanisms to enhance the effectiveness of the Committee's operations. At a minimum the focus of these efforts should be to enhance coordination among the review agencies in developing comprehensive positions and conditions for proposed projects. In so doing, consensus building should become a part of the coordinated response to permit applications so that conditions assure that the regulatory requirements of each participating agency are appropriately addressed and to assure that cumulative impacts of proposed activities are considered. Likewise, as part of the enhanced approach to ARC processes, agencies should develop strategies which will facilitate project monitoring and the enforcement of conditions to each permit. It is the expectation of NOAA that the GCMP Manager will take the lead in this effort with the support of GCMP staff assigned to the ARC and that decisive action toward meeting the above concerns will occur within the near future.**

## **7. GCMP Involvement in Potential Reorganization and Program Positioning.**

At the time of the site visit, a new administration had been in office for just over four months. Appointments to some key posts had yet to be made, and the Governor was considering the reorganization of the overall administration of Guam's government. The concern is that, as the change occurs, the GCMP remains in an organizational position to best carry out the network tasks needed to implement the approved coastal management program and its various elements.

**PROGRAM SUGGESTION:**

**As the Government of Guam considers reorganization, it is essential that the administration of the GCMP be at a sufficiently high level to assure that the coordinating functions of the office continue and are reinforced both within the Government of Guam, as well as outside of the Government as it deals with the Federal partners in resource management and protection. Likewise, the management of the Seashore Reserve should be closely linked with the GCMP.**

**8. Program Updating:**

There have been a number of changes to the basic laws of the GCMP over the years, including the ‘fishery reserves’ which have not yet been incorporated into the GCMP as program changes. It is now timely that these be documented and submitted to OCRM for review and incorporation.

**PROGRAM SUGGESTION:**

**The GCMP is encouraged to work with OCRM and move quickly toward updating the Program, to include relevant changes to Guam statutes and regulations.**

**9. Education and Outreach.**

The GCMP has always had a strong education and outreach program, and its program of outreach and education has served as an example to the other island coastal programs as well as those on the mainland. However, publication of its quarterly newsletter “Man, Land and Sea” during 2002 and the 2003 has not occurred at the regularly scheduled intervals. Given the potential reorganization of Guam’s government, the relocation of the administration of the GCMP, and the need to again take the initiative in program education and outreach, it is timely to review past practices against current needs and opportunities to rebuild and develop an even stronger education and outreach program.

**PROGRAM SUGGESTION:**

**The GCMP is encouraged to re-examine its current education and outreach program in order to develop a strategic vision of what should be done to expand the basic message of coastal resource management and protection to the people of Guam. The newsletter “Man, Land and Sea” should be published on more than an annual basis and GCMP is encouraged to return to its quality quarterly publication.**

## I. INTRODUCTION

Section 312 of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct a continuing review of the performance of States and Territories with Federally approved Coastal Management Programs. This document sets forth the evaluation findings of the Director of OCRM with respect to the Guam Coastal Management Program (GCMP) for the period from February 1999 through April 2003. This document includes an Executive Summary, Program Review Procedures, Program Description, Accomplishments, Review Findings and Recommendations, and a Conclusion.

The recommendations made by this evaluation appear in **bold** type and follow the section of the findings in which the facts relative to the recommendation are discussed. The recommendations may be of two types:

(1) **Necessary Actions** address programmatic requirements of the CZMA regulations and of the GCMP approved by NOAA, and must be carried out by the date(s) specified. These findings contain five Necessary Actions.

(2) **Program Suggestions** denote actions which OCRM believes would improve the management and operations of the Program, but which are not mandatory at this time.

If no specific dates are given for carrying out a Program Suggestion or a Necessary Action, the Territory is expected to have successfully implemented the Necessary Action or Program Suggestion by the time of the next section 312 evaluation. The findings contained within this document will be considered by NOAA in making future financial assistance award decisions relative to the Guam Coastal Management Program.

## **II. PROGRAM REVIEW PROCEDURES**

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began review of the GCMP in January 2003. This included an analysis of the approved GCMP, previous and current award documents and performance reports, previous evaluation findings, correspondence relating to the GCMP, and other relevant information. The OCRM National Policy and Evaluation Division (NPED) and the Coastal Programs Division (CPD) staff coordinated to determine the issues which would become the main focus of the evaluation. The Evaluation Team analyzed the Territory's responses to these specific issues and used them as primary sources of information on the GCMP's operation.

The Evaluation Team gave special emphasis to the following issues:

- \* The extent to which the GCMP has assumed a leadership role in coastal management through coordinating the activities of the networked Territorial agencies and Federal agencies, with special emphasis on the GCMP's role in Guam Land Use Commission decisionmaking and in land and water master planning;
- \* The extent and effectiveness of public participation in the GCMP and public education by the GCMP;
- \* The effectiveness of monitoring and enforcing the Territorial laws and authorities under the GCMP;
- \* The effectiveness of the GCMP Federal consistency process as a management tool;
- \* Current GCMP activities for addressing coastal management issues including public access, hazards planning, territorial seashore protection, and coral reef protection; and,
- \* Current GCMP funded activities for addressing coastal management issues including wetlands mitigation, water quality assessment, and watershed protection and planning.

John H. McLeod, Evaluation Team Leader, NPED; Bill Millhouser, CPD, Jonathan

Kelsey, Program Specialist, CPD; David Hartman, Program Manager of the New Hampshire Coastal Program; and, Gene Brighthouse-Failauga, Program Manager of the American Samoa Coastal Management Program conducted a site visit from April 21 through 25, 2003. The Evaluation Site Visit Team met with representatives of Territorial and local governments, Federal agencies, interest group representatives, and private citizens during the site visit.

Prior to the site visit, the Evaluation staff provided written notice of the GCMP evaluation to relevant Federal agencies and provided opportunities for them to respond. A Public Meeting was held on April 24 from 5:30 PM in the Guam Environmental Protection Agency Conference Room in Tiyan. (**Appendix A** lists persons contacted in connection with the evaluation; **Appendix B** lists persons who attended the Public Meeting; **Appendix C** contains NOAA's response to written comments received.)

The GCMP staff were instrumental in setting up meetings and arranging logistics for the evaluation site visit. Their support is gratefully acknowledged.

### III. PROGRAM DESCRIPTION

The Bureau of Planning (BOP) is the designated lead agency to implement the GCMP and administer the Federal financial assistance award. The entire island of Guam has been designated as the coastal zone. Consequently, all of the Territory's land use related planning, as well as the relevant regulatory agencies, programs, and laws fall within the concern of the GCMP. In 1975, the Twelfth Guam Legislature enacted comprehensive planning legislation (P.L. 12-200) with objectives similar to those of the GCMP. The major objectives of the GCMP as outlined under this planning legislation are:

- To determine the extent to which Guam's natural resources limit urban and rural development;
- To plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology;
- To establish generalized areas of use within an urban, rural, agriculture, conservation, and resort context;
- To provide a development pattern that enhances comfort, convenience, and economic welfare;
- To plan for a high quality environment essentially free from pollution with adequate well-kept open space throughout Guam's varying activity centers; and
- To recommend creative legislation regulating the use of land for protection of future generations.

The Guam Land Use Commission (GLUC) (formerly the Territorial Planning Commission) has the primary responsibility for land use management in Guam. The GLUC is composed of seven members from the private sector, appointed by the Governor, with the advice and consent of the Legislature. Under Executive Order 73-23, the GLUC is required to implement a set of land use district guidelines that place all land in Guam into one of four land use districts: urban, rural, agricultural, or conservation. The GLUC also administers the Guam Zoning Law (GCC Title XVIII). The GLUC has established requirements for building permits, zoning changes, and subdivision of land. The Territorial Seashore Protection Commission (TSPC), which has the same membership as the GLUC, reviews all development in the Territorial Seashore Reserve. Since all GLUC/TSPC permits must be consistent with the policies of the GCMP, this permitting program and the Territorial agency review of applications are critical aspects of the GCMP.

The Bureau of Planning which the GCMP is housed, is responsible for ensuring that the program is implemented in accordance with the policies of the GCMP. However, day-to-day implementation of various components of the GCMP have been delegated to other Territorial agencies. For example: the Department of Agriculture's Division of Aquatic and Wildlife Resources (DAWR) is responsible for enforcement of fish and game laws; the Department of Public Works (DPW) is responsible for enforcement of building and grading permits; the Guam Environmental Protection Agency (GEPA) is responsible for improving and maintaining water quality; the Department of Land Management (DLM) is responsible for land use law requirements; and the Department of Parks and Recreation (DPR) is responsible for the management of the Territorial Seashore Park. The function of the BOP is to provide direction to these agencies to ensure progress toward accomplishing the objectives of the GCMP. The BOP may intervene, if necessary, when line agencies' decisions are inconsistent with the policies of the GCMP.

#### **IV. PROGRAM ACCOMPLISHMENTS**

The true strength of any program lies in its supporting staff and Guam is fortunate in this regard. It is through their efforts that the significant accomplishments documented here came to fruition. During the period of time covered by this evaluation, February 1999 through April 2003, the Guam Coastal Management Program has addressed many coastal issues. This has resulted in 3 years of growth in program implementation at international, national, Territorial, regional and local levels. The results detailed below would not have occurred without committed staff. Ultimately, the actions of GCMP personnel lead to the specific accomplishments detailed below.

##### **A) Staff Activities.**

In the latter part of 2002, Guam was hit by two significant typhoons, and wind and water damage was experienced throughout the Territory. The offices of the GCMP were damaged such that they had to be relocated to nearby Agana. Despite the disruption brought about by a major office relocation, and the personal disruption to the living space of staff, the interruption of electrical services and communication, the staff relocated to a new location with little disruption of service delivery. Current office space is less than desirable, with more than four individuals to an office space, yet the activities of the office continue to run efficiently. The staff is recognized for their perseverance in maintaining work flow and response to GCMP processes in this most trying of circumstances.

##### **B) Federal Consistency.**

Federal consistency is carried out in a highly effective and professional manner. With certain exceptions which were outside the capability of GCMP staff to respond, and absent strong support from the Program Manager, the process works efficiently and well. The GCMP assures that all Federal actions are reviewed for consistency. The majority of actions relate to U.S. Army Corps of Engineers (Corps) permits, and the GCMP has developed a close working relationship with the Corps. While they do not share joint public notice, the notice provided by the Corps is considered appropriate for consistency and satisfies the requirement at 15 CFR 930.61(a) and (b). In the area of monitoring and enforcement, 95% to 98% of violations are corrected - if there is no correction, the action is taken to court. In the area of wetlands permits,

justification has moved away from a definition which stresses the protection of fauna and flora to one which stresses flood control and aquifer protection - a position which is more clearly understood, appreciated, and defended by the landowner.

### **C) Geographic Information System User Group.**

A strong relationship has been cultivated with the NOAA Coastal Services Center and Pacific Services Center through the Pacific Island Assistantship Program, which has resulted in a strengthened GIS User Group, added technical assistance efforts, a training program, and web page creation. The GCMP has developed a GIS website for use by the network agencies with the help of the NOS Coastal Services Center. With the exception of the Department of Land Management, all agencies are on line with the use of ESRI as the underlying GIS technology. Data layers are now in ESRI with ArcGIS. The GIS website [<http://www.guamgis.net>] is online and is available to the public. The recent typhoons have allowed for an increase in data layers which will support utilities decisions and the development of permit applications, a significant need of Guam EPA.

Plans are also under way to launch a data support system for the automated permit tracking program. The Department of Land Management has stated its support for this effort and has agreed to the use of the system. The initial effort was a two stage endeavor, again through the support of the Coastal Services Center. Step one was to contact the programs with a permit tracking program and to compile a comprehensive list of program needs and results. Concurrent with this was step two which looked at the different off the counter (OTC) programs available and identified the various capabilities of each. The next phase will be to implement programs in support of the resource agencies' permit review, comment, conditioning, monitoring, and enforcement needs.

### **D) All Islands CZM Program Managers Meeting.**

In June 2002 the GCMP successfully hosted the annual All Islands Coastal Management Program Managers Meeting. The GCMP organized and coordinated the logistical and substantive requirements for this meeting from hotel arrangements to coordinating an agenda and speakers. Over 100 local and regional managers and staff from coastal management related agencies and organizations participated in this three day event, which included presentations, discussion, and field site visits. Staff worked tirelessly to ensure that all details were addressed, including contractual arrangements with the venue to ensure that meeting materials, registrations, and events ran smoothly. The GIS section coordinated and ran several days of technical training prior to the meeting, and the education staff person utilized the opportunity to film an episode of the *Man, Land, and Sea* television show. Finally, GCMP Federal consistency staff coordinated

with the CNMI Coastal Resources Management Office to have OCRM staff David Kaiser hold a one day training workshop on Federal consistency on the day before the All Islands meeting began. This required working with the network of Federal and local partner agencies to ensure that broad representation from all relevant agencies, both Federal and local, were present.

## V. REVIEW FINDINGS AND RECOMMENDATIONS

The Office of Ocean and Coastal Resource Management (OCRM) finds that the GCMP is adhering to its approved coastal management program; implementing and enforcing the GCMP; and adhering to the programmatic terms of the NOAA financial assistance awards. The Territory continues to address national coastal management needs identified in CZMA Section 303 (2) (A) through (K). The previous evaluation of Guam's performance in implementing the GCMP resulted in 8 program suggestions. The Territory met, or is meeting these recommendations. (See Appendix D for a discussion of each finding, recommendation, and response, and for reference to the response within this document where appropriate.)

The evaluation site visit team recognizes that the cultural diversity evidenced in Guam, its linkages to the underlying Chamorro culture, and its status as an island Territory of the United States is directly related to the implementation of the GCMP and makes an initial determination that these considerations are paramount to the conduct of this evaluation. The accomplishments discussed above and, particularly, these following findings and recommendations are crafted to reflect this reality. The following recommendations document some of the key management issues facing the Territory and contains Necessary Actions and Program Suggestions designed to improve the performance of the GCMP.

### **A) GCMP Office Management, Communication, and Support.**

The Evaluation Team found that the GCMP lacked a coherent mission and day to day management. For example, the Team found multiple instances where GCMP staff were not supported in their regular duties and where professional staff processes and procedures were not supported by upper level management. Moreover, the Team found staff not receiving communication, guidance or direction in their activities, and as such products and progress on tasks funded under the Federal grant were not being achieved.

In an effort to prevent such situations from occurring in the future, the GCMP Administrator must become more engaged in the active management and leadership of the GCMP and its staff. The Administrator must also be more forceful in acknowledging the responsibilities of program management as they relate to support of staff implementation of basic processes and procedures of the Federally approved program. Processes and procedures must be in place to ensure that regular communication and coordination are the norm, and that staff are receiving adequate direction, guidance, and support from GCMP management.

On a related note, office facility needs must be immediately addressed as well as possible to facilitate staff tasks and improve overall working conditions. Up to four staff share one small office area that also serves as a corridor. Office resources also need to be inventoried and controlled, and where resources are lacking, acquired. Staff meetings and other such internal communication mechanisms must become a norm of operation to assure coordination of effective effort and maintain overall programmatic awareness.

## **NECESSARY ACTION**

**The GCMP must develop and submit the following to OCRM for review no later than one month after the receipt of final evaluation findings:**

- **An office communications plan outlining: a) a process and timetable for setting short term work schedules and goals, and b) mechanisms and schedules for updating/reporting on accomplishments and challenges.**
- **Staff work plans for each GCMP staff person outlining tasks and timetables.**

**GCMP must immediately begin to implement the above plans. Implementation and progress must be documented in future performance reports, beginning with the first report after receipt of these final findings.**

### **B) Coordination of Program Priorities within GCMP, the Bureau, and the GCMP Network.**

The Evaluation Team found that GCMP is not sufficiently coordinating its day to day and annual priority setting of program activities. This includes the setting of coordinated priorities at the following levels: 1) among GCMP staff, 2) between GCMP and other sections of the Bureau of Statistics and Plans, with emphasis on the GIS section, and 3) among Guam's network of coastal management agencies and organizations. Building on the Necessary Action above, the GCMP must implement actions to regain the momentum and strength of its Program and network, which has declined over the past several years. A number of missed opportunities were identified on several levels, including both Territorial initiatives and potential partnerships with Federal agencies.

One example of this is the lack of coordination regarding projects at Talofof Bay. Here the U.S. Army Corps of Engineers (Corps) is developing a plan to construct a hard structure to protect the coastal highway from land loss to erosion while the Department of Public Works, in conjunction with GCMP, is developing plans to replace a jetty to protect a park area adjacent to the proposed Corps project. Neither project will address the issue that the bridge at the head of

the Bay does not connect with the existing abutment and erosion there is damaging the integrity of the bridge and road connection. At issue is the lack of communication between the participants trying to resolve the issue and the need for a comprehensive approach to dealing with all the issues surrounding the erosion problem, park protection, and protection of the road and bridge. There is a need for leadership to convene the parties to address the specific issues here and to set in motion a process which allows for ongoing viable communication between the Corps and the resource agencies to assure ongoing concerted efforts directed toward the wider resource.

The GCMP Administrator must take immediate action to direct the coordination of priority setting for the GCMP. In so doing, the GCMP must develop an annual planning process and schedule to develop and implement intra-office, intra-bureau, and inter-agency priorities for the annual grant and other programmatic initiatives. This planning process must have staff participation and include actions to provide or link technical assistance and funding support to GCMP's network agency partners toward the implementation of territorial coastal management priorities. Furthermore, the GCMP Administrator must actively work with the GIS section in setting coordinated priorities to ensure that GIS technologies directly benefit GCMP implementation and support the needs of the network agencies. This must include coordination of the GIS technical assistance currently provided to Guam by NOAA.

As priorities are set, the GCMP Administrator must take a leadership role in providing guidance and direction to the Territory on coastal resources and issues such as the development, approval and implementation of the Seashore Protection Plan and other formative coastal management issues that arise. Furthermore, the Administrator must take responsibility as the individual charged with assuring that the processes and procedures of the GCMP are strongly promoted in the implementation of all programmatic priorities.

#### **NECESSARY ACTION:**

- 2) No later than one month after the receipt of the final evaluation findings, the GCMP will submit to OCRM for review, plans which describe the process for coordination and priority setting at the three levels described above: 1) among GCMP staff, 2) between GCMP and other sections of the Bureau of Statistics and Plans, with emphasis on the GIS section, and 3) among Guam's network of coastal management agencies and organizations, including its Federal partners.**

#### **C) Leadership in the Development and Approval of the Guam Seashore Reserve Plan.**

It was recognized by the evaluation team during the site visit that the Guam Seashore Reserve Plan (GSRP) is a crucial element of the GCMP and is long overdue in its development, approval and implementation. The recent Seashore Protection Planning process has been a failure

of the GCMP to adequately implement the intent of the approved program, and moreover to responsibly administer Federal funding. During this process the GCMP put forth nominal effort to: prevent the consultant from developing the plan with little to no public input, counter the consultant's actions to ignore the input and comments of affected regulatory agencies, and stop the process that resulted in the consultant presenting the plan to the Commission for adoption.

The actions of the resource agencies to develop a revised version of a Seashore Protection Plan, despite the fact that neither the GCMP Manager or staff were involved in the effort, is to be commended. As a critical and long overdue element of the implementation of the GCMP, the inaction by the program administrator is irresponsible and can have the effect of jeopardizing overall program funding. At this point the GCMP must take leadership in guiding the Plan through its approval steps, assuring full input from the public and response to public concerns at each step of the process.

#### **NECESSARY ACTION:**

- 3) As this Plan is an integral, critical component of Guam's coastal management framework, GCMP must take an appropriate leadership role with its network agency partners to ensure proper development and implementation of the Guam Seashore Reserve Plan. A final process and timetable for the development of the Seashore Protection Plan must be provided to OCRM within one month of the receipt of these final findings for approval to assure the intent of this recommendation is being carried out. The process must describe how the Federal funding allocated for Seashore Plan approval under the FY2003 grant is proposed to be spent.**

#### **D) Leadership in the Completion and Approval of Guam's Non-point Source Pollution Control Plan.**

The Territory has received considerable amounts of funding to develop a non-point source pollution control plan which has yet to be completed. Despite efforts on the part of EPA and OCRM to define the remaining plan elements which Guam must address, Guam agencies continue to contend that their existing authorities are broad enough to meet program requirements without additional enforceable policies or management measures. This approach is counterproductive, particularly since other Pacific island programs have reached program approval with minimal effort once agreed upon tasks are completed. The Territory currently has funds to implement its non-point source protection plan, even though there is no approved plan to administer.

At the time of the site visit, OCRM and EPA were developing a letter to define the specific steps needed to develop an adequate and approvable plan. The letter outlines the

minimum that will be necessary, information which has been provided in other approaches but not heeded. An approved plan will make Guam eligible for additional funding for implementation. However, lack of a plan may make Guam vulnerable to the loss of funding, or, at a minimum, the retention of implementation funds by NOAA until a plan is in place. The GCMP Manager, along with the leadership in Guam EPA, must take the lead in organizing a coordinated approach among the affected regulatory agencies to address the specific needs identified to develop its non-point source protection plan and submit it within six months of the receipt of these final findings.

**NECESSARY ACTION:**

- 4) GCMP and Guam EPA must commit the necessary staff effort to complete and submit its non-point plan for approval within six months of the receipt of these final findings. Absent this action, funds will be withheld in the appropriate amount that would be channeled toward implementation, until such time as an approvable plan has been submitted.**

**E) Management of GCMP Contractual Expenditures of Federal Funds.**

The review Team was made aware of several instances, as cited in the Necessary Actions above, of neglect associated with administration of GCMP Federal grant expenditures for contractual services. The lack of adequate management of Federally-funded contracts has resulted in required products and services not being delivered. The deficiency of contract stewardship and subsequent incomplete fulfillment of deliverable expectations have been significant contributing factors to the lack of appropriate progress on Necessary Actions 3 and 4 above. Of particular note is the lack of contract oversight in the development of the Guam Seashore Reserve Plan. In this instance, the plan was submitted to an authorizing body by the contractor without adequate review by Guam resource agencies. Furthermore, there was no public review and input during the development of the contractor's plan despite Federal requirements for public review. The lack of supervision by those associated with the contract has been called into question and will be elevated for further review to determine if legal action is warranted. Certainly, this and other failures to adequately manage the Federal funds provided to Guam under the CZMA represents a violation of the terms of the relevant cooperative agreements.

**NECESSARY ACTION:**

- 5) In order to ensure adequate oversight of present and future Federal funds spent on contractual services, all such expenditures subsequent to receipt of these final findings must be reviewed and must receive prior approval from OCRM. Within one month from the receipt of the final evaluation findings document, GCMP will develop and submit to OCRM an agreed upon process to ensure the review and proper expenditure and ongoing management of**

**contractual funds. This will include the review of any MOUs related to interagency transfer of funds for contractual services, all RFPs prior to advertisement, subsequent proposals, and summaries of local team review and selection decisions. Furthermore, the Program is required to provide OCRM with quarterly summary reports on progress being made under all ongoing and pending contracts. It is further recommended that contract management responsibilities be considered as an element in the development of staff work plans.**

**F) GCMP Management Involvement in Bettering Application Review Committee (ARC) Processes.**

One of the central mechanisms of coordination within the GCMP is the Territorial Agency Application Review Committee. Permit applications are to be reviewed by this group and comments coordinated. However, once applications are submitted, they are routed to the various agencies, comments are made and conditions applied as submitted, and the permit, with the conditions of the agencies are forwarded to the Guam Land Use Commission (GLUC). At GLUC hearings each agency is expected to present and defend its conditions to permits under consideration. Essentially, there is no overarching review of all of the comments from the various agencies to determine if there are duplicative requirements, requirements which may exclude or impact upon the conditions of another agency, requirements which are vague and allow for interpretation regarding implementation, or requirements which would be difficult or impossible to monitor. Multiple examples demonstrating the outcomes that result from this lack of coordination among ARC agency review and determination were presented to the evaluation team, making it clear that improvement is needed.

For minor permits, applications are submitted to the permit clearing house and the appropriate reviewing Agency is checked for comment on the application. All resource agencies provide staff support to the Clearing House. The problem is that there are times when an Agency which should review the permit is not available, and the permitting process proceeds without the advice of that agency. This problem was indicated to the evaluation review team by several of the resource agencies. Further, leadership recognizes that these problems exist. Leadership also acknowledged that there is little to no enforcement or monitoring of permit conditions and that what is done is in response to complaint only. Essentially, the personnel to carry out a viable monitoring and enforcement program are not available.

**PROGRAM SUGGESTION.**

- 6) As a major element of maintaining, rebuilding, and strengthening the GCMP network, the GCMP, the Department of Land Management, and the other ARC member agencies, should immediately assess the methodologies and**

**processes of the ARC and revise and/or develop new mechanisms to enhance the effectiveness of the Committee's operations. At a minimum the focus of these efforts should be to enhance coordination among the review agencies in developing comprehensive positions and conditions for proposed projects. In so doing, consensus building should become a part of the coordinated response to permit applications so that conditions assure that the regulatory requirements of each participating agency are appropriately addressed and to assure that cumulative impacts of proposed activities are considered. Likewise, as part of the enhanced approach to ARC processes, agencies should develop strategies which will facilitate project monitoring and the enforcement of conditions to each permit. It is the expectation of NOAA that the GCMP Manager will take the lead in this effort with the support of GCMP staff assigned to the ARC and that decisive action toward meeting the above concerns will occur within the near future.**

**G) GCMP Involvement in Potential Reorganization and Program Positioning.**

At the time of the site visit, a new administration had been in office for just over four months. Appointments to some key posts had yet to be made, and the Governor was considering the reorganization of the overall administration of Guam's government. At the conclusion of the site visit, the team was provided with an initial organization chart which substantially reduced from over 50 Agencies, Offices, Bureaus, Services and other bodies carrying out the business of administering the Territory's government to eleven (11) cabinet offices. The concern here is not in the change of organizational structure. There is ample evidence to document that such a move is appropriate, and the Governor is to be praised for his work to bring about a positive change in Guam's governance. The concern is rather that, as the change occurs, the GCMP remains in an organizational position to best carry out the network tasks needed to implement the approved coastal management program and its various elements.

**PROGRAM SUGGESTION.**

- 7) As the Government of Guam considers reorganization, it is essential that the administration of the GCMP be at a sufficiently high level to assure that the coordinating functions of the office continue and are reinforced both within the Government of Guam, as well as outside of the Government as it deals with the Federal partners in resource management and protection. Likewise, the management of the Seashore Reserve should be closely linked with the GCMP.**

#### **H) Program Updating.**

There have been a number of changes to the basic laws of the GCMP over the years which have not yet been incorporated into the GCMP as program changes. It is now timely that these be documented and submitted to OCRM for review and incorporation. Also, any changes to the location of the GCMP within the government of Guam which occur as a result of the Governor's reorganization initiative will need to be submitted as program changes.

#### **PROGRAM SUGGESTION.**

- 8) The GCMP is encouraged to work with OCRM and move quickly toward updating the Program, to include relevant changes to Guam statutes and regulations.**

#### **I) Education and Outreach.**

The GCMP has always had a strong education and outreach program, and its program of outreach and education has served as an example to the other island coastal programs as well as those on the mainland. However, publication of its quarterly newsletter "Man, Land and Sea" occurred once in 2002 and the 2003 publication has yet to occur. Given the potential reorganization of Guam's government, the relocation of the administration of the GCMP, and the need to again take the initiative in program education and outreach, it is timely to review past practices against current needs and opportunities to develop an even stronger program.

#### **PROGRAM SUGGESTION.**

- 9) The GCMP is encouraged to re-examine its current education and outreach program in order to develop a strategic vision to expand the basic message of coastal resource management and protection to the people of Guam. The newsletter "Man, Land and Sea" should be published on more than an annual basis, and GCMP is encouraged to return to its quality quarterly publication.**

## VI. CONCLUSION

Based on OCRM's review of the federally approved Guam Coastal Management Program and the criteria at 15 CFR 928.5(a)(3), I find that the Territory of Guam is adhering to its federally approved coastal management program. Further advances in coastal management implementation will occur as the Territory addresses the program suggestions contained herein.

These evaluation findings contain nine (9) recommendations, five (5) of which are necessary actions and are mandatory and four (4) of which are program suggestions that the Territory should address before the next regularly scheduled program evaluation and which are not mandatory at this time. Program suggestions that OCRM must repeat in subsequent evaluations, however, may be elevated to necessary actions (which must be acted upon within specific time frames or financial assistance may be jeopardized).

This is a programmatic evaluation of the GCMP that may have implications regarding the Territory's financial assistance award(s). However, it does not make any judgements on, or replace any financial audit(s) related to, the allocability of any costs incurred.

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Date

Eldon Hout, Director

**GUAM COASTAL MANAGEMENT PROGRAM  
312 EVALUATION**

**PERSONS CONTACTED DURING THE EVALUATION**

Governor Felix P. Camacho  
Lt. Governor  
Senator Rory Respicio, Natural Resources Committee

**Bureau of Planning**

Manny Cruz	Director
Mike Gawel	Manager, Guam Coastal Management Program (GCMP)
Mely Deleon	Planner, GCMP
Francis Damian	Planner, GCMP
Ray Caseres	Planner, GCMP
Terry Perez	Planner, GCMP
Sonia Shjegstad	Planner, GCMP
Annie Flores	Resource Information and Education Officer, GCMP
Vangie Lujan	GIS Manager
James Byrne	Pacific Island Assistant
Victor Torres	Planner, GIS

**Department of Land Management**

Felix Dungca	Director
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**Department of Public Works**

Joe Morcilla	Director
Eddie Borja	Building Permit Supervisor

**Department of Parks and Recreation**

Joe Duenas	Director
Linda Aguon	Historic Preservation Officer
Peter Villagomez	Parks Division

Rita Artero                      Recreation Division

Guam Environmental Planning Agency

Fred Castro	Administrator
Randy Sablan	Chief Planner
Chris Lund	Chief Engineer
Pete Cruz	
Jessie Cruz	
Domingo Cabousall	

Department of Agriculture

Rufo Lujan	Director
Gerry Davis	Division of Aquatic and Wildlife Resources (DAWR)
Trina Leberer	DAWR
Dave Limtiaco	Forestry Division

University of Guam

Leroy Heita	Director
Gary Denton	Professor of Toxicology

University of Guam Marine Laboratory

Steven Amesbury	Director
Bob Richmond	Marine Biology Professor
Roy Tsuda	Marine Biology Professor
Suzanne Wilkins	Lab Manager

Federal Agencies

Bill Thomas	Coastal Services Center
Mike Lee	Environmental Protection Agency (EPA)
Ben Machol	EPA
John McCarroll	EPA
Roy Tsutsui	ComNavMarianas
Robin Demo	NRCS
Stanley Boc	U.S. Army Corps of Engineers (Corps)
Frank Dayton	Corps
Michael Molina	Field Supervisor, U.S. Fish and Wildlife Service (USFWS)
Kevin Foster	Marine Biologist, USFWS
Antonia Bentivoglio	USFWS

Lt. Ryan Wagner  
John Sanchez

U.S. Coast Guard  
Guam Wildlife Refuge

Others

Mike Hamnet  
Mike Hamm

Pacific Basin Development Commission

\_\_\_\_\_ **GUAM COASTAL MANAGEMENT PROGRAM  
312 EVALUATION**

\_\_\_\_\_ **PERSONS ATTENDING THE PUBLIC MEETING**

The Public Meeting was held on February 1 from 5 to 8 pm in the Guam Environmental Protection Agency Conference Room in Tiyan.

Attendees:

Mike Hamm\*\*

Citizen

Dionie De Leon

Department of Public Works

The meeting was called to order at 5:30 pm. It was noted that the Public Meeting was duly advertised and introductions were made. The purpose of the public meeting was explained. An informal discussion was held with the attendees related to issues affecting the Pacific islands coastal environment and its uses. The meeting was concluded at 6:45 p.m.

\*\* Commented at the Public Meeting.

\_\_\_\_\_ **GUAM COASTAL MANAGEMENT PROGRAM  
312 EVALUATION**

\_\_\_\_\_ **WRITTEN COMMENT RECEIVED AND RESPONSE**

No written comments were received during the conduct of this review.

**GUAM COASTAL MANAGEMENT PROGRAM  
312 EVALUATION**

**RESPONSE TO PREVIOUS FINDINGS**

**1) PROGRAM SUGGESTION. Territorial Seashore Reserve Plan.** GCMP is encouraged to revisit the Territorial Seashore Reserve Plan as part of its coastal enhancements program initiative as a two year project to first document existing conditions to include permitted activities and develop a plan of protection and preservation.

**GCMP Response:** This is discussed in these findings under Program Findings and Recommendations, “Leadership in the Development and Approval of the Guam Seashore Reserve Plan” and dealt with in a Necessary Action following the discussion.

**2) PROGRAM SUGGESTION. Guam Land Use Commission.** GCMP is encouraged to provide technical support and information to GLUC members to clarify their role and responsibilities in implementation of the newly adopted I’Tanota land use plan.

**GCMP Response:** This did not occur because the land use plan was vacated. The basic set of issues are dealt with in the discussion under the “Leadership in the Development and Approval of the Guam Seashore Reserve Plan.”

**3) PROGRAM SUGGESTION. Recreational Water Use Management Plan.** The GCMP should continue to monitor uses in Guam’s bays in order to ameliorate environmental impacts from personal water craft (PWC) and other usage through amendments to the Recreational Water Use Management Plan. GCMP should continue to operate under the “precautionary principle” when amending the Recreational Water Use and Bay Master Plans until further study of PWC impacts is conducted.

**GCMP Response:** This was not addressed by the GCMP during this review period. It is discussed under the “Leadership in the Development and Approval of the Guam Seashore Reserve Plan.”

**4) PROGRAM SUGGESTION. Marine Reserves.** GCMP is encouraged to develop an FY99 CZM Cooperative Agreement task to assist the DOA and other agencies in the development of

regulations in support of marine protected area enhancement including enforcement issues. The GCMP public information program should be used to ensure that the public is aware of the purpose, policies and uses of the different Marine Reserves. The GCMP networked agencies are encouraged to investigate coordinated effort to support the Marine Reserves including integrating monitoring, management, and research goals with the Guam National Wildlife Refuge and the Anderson AFB Marine Reserve.

**GCMP Response:** While the recommendation was addressed, it was effectively undercut by the questionable permitting of the Birdman Project in Tumon Bay.

**5) PROGRAM SUGGESTION. Interaction With Federal Agencies.** The GCMP is encouraged to coordinate a Pacific Island Governors Statement of Issues with the Department of Defense relative to the impact of military activities on coral reefs and other coastal habitats.

**GCMP Response:** The Program has not effectively dealt with this issue.

**6) PROGRAM SUGGESTION. Increased Network Coordination.** The GCMP is encouraged to continue to track opportunities to support the networked agencies in their joint coastal missions by helping to educate the public and decisionmakers in coastal issues.

**GCMP Response:** Current activities of the GCMP do not adequately support meeting this recommendation.

**7) PROGRAM SUGGESTION. Hazard Mitigation.** GCMP is encouraged to work with NOAA/OCRM in developing a federal/territorial strategy for responding to environmental and natural resource damage resulting from natural hazard events.

**GCMP Response:** This was not addressed by the GCMP during this review period.

**8) PROGRAM SUGGESTION. Technology.** The GCMP is encouraged to provide desktop access to e-mail for all staff and, where appropriate, access to the World Wide Web (WWW). GCMP is also encouraged to provide Internet training to all staff including e-mail software training and appropriate use of the Internet and WWW in order to fully develop existing and future technological capabilities.

**GCMP Response:** This was done.